



City of Portland
Bureau of Development Services
Land Use Services Division

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Date: September 30, 2008
To: Interested Person
From: Shawn Burgett, Land Use Services
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NOTICE OF A TYPE II_x DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-135198 LDP AD

GENERAL INFORMATION

Representative: Lisa Barker
Lmb Permit Services
307 NW 16th Avenue
Battleground, Wa 98604
360-921-6899

Property Owners: Nicholas A Sanseri & Kristin E Sullivan
5416 SE Raymond St
Portland, OR 97206-4854

Site Address: 5416 SE Raymond St

Legal Description: E 50' OF W 100' OF LOT 5 BLOCK A, OVERTON PK
Tax Account No.: R634400350
State ID No.: 1S2E18AC 01400
Quarter Section: 3536
Neighborhood: Woodstock, contact Terry Griffiths at 503-771-0011.
Business District: Woodstock Community Business Association, contact Jane Glanville at 503-775-2755.
District Coalition: Southeast Uplift, contact Cece Hughley Noel at 503-232-0010.
Plan District: None
Zoning: R5 (Single Family Residential 5,000)
Case Type: LDP AD (Land Division Partition with "AD" Adjustment review)
Procedure: Type II_x, an administrative decision with appeal to the Hearings Officer.

Proposal:

The applicant is proposing a 2-lot land division. Proposed Parcel 1 measures approximately 3,800 sq. ft and will retain the existing house on the site. Proposed Parcel 2 (measuring approximately 6,325 sq. ft) is considered a "Flag Lot" which is a flag shaped lot behind the existing house with access to SE Raymond Street from proposed Parcel 2 via a 12 ft. wide flag pole (see attached site plan for details). The applicant has requested an adjustment to the Zoning Codes side setback standards in order to allow the existing house on proposed Parcel 1 to be located closer to the proposed flagpole lot line than the Zoning Code allows.

Zoning Code section 33.110.220.D.2 requires a minimum 3-ft. side building setback from an existing house and a flagpole lot line.

In this case, the applicant is proposing a zero setback between the existing house on Parcel 1 and the flagpole associated with proposed Parcel 2. The applicant has proposed to mitigate for the proposed driveway to the flag lot by either placing a 6 ft. tall wood fence along the flag pole's western property line, or planting large shrubs along the flag poles western property line to buffer the neighbor located to the west from some of the impacts of the flag lots driveway.

This partition proposal is reviewed through a Type IIX procedure because: (1) the site is in a residential zone; (2) 10 or fewer lots are proposed; and (3) a concurrent review (Adjustment) is required (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010).

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The approval relevant criteria are:

- 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.
- 33.805.040, Approval Criteria for Adjustments

ANALYSIS

Site and Vicinity: The site is flat and has a single story detached home located on it. The area surrounding the site is made up of primarily single family homes of various types and sizes. Recent aerial views show a large tree canopy.

Zoning: The R5 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

Land Use History: City records indicate no land use history on the site.

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on August 8, 2008. One written response has been received by the Woodstock Neighborhood Association Land Use Planning Committee.

Neighborhood Comments: The Woodstock Neighborhood Association Land Use Planning Committee wrote to summarize a meeting that took place on 8/28/08 regarding this proposal. The letter stated that the applicant (Nicholas Sanseri) and two neighbors (one to the north and one to the west) were present to discuss this proposal. The letter stated that the neighbor living to the west of this proposal spoke in favor of the proposed land division. Additionally, the letter mentioned that a second neighbor expressed concern about the small parking pad proposed in the rear of Parcel 1 with the existing house, which could result in more on-street parking. The letter went on to state that while the committee had concerns about this proposal, there was not a strong enough sentiment to oppose it.

BDS Response: *Planning staff appreciates the fact that the applicant, concerned neighbors and the Woodstock Neighborhood Association Land Use Planning Committee were able to meet*

to discuss this proposal prior to the rendering of the preliminary decision. These meetings can often open up lines of communication and alleviate neighborhood anxieties about land divisions and development proposals in their neighborhood.

In regard to parking, this proposal could definitely increase the likelihood that more vehicles might park on the street, but that is part of what a public street provides, on street parking. In addition, the applicant has proposed to place replacement parking in the rear of Parcel 1, with access via an access easement over the flagpole of Parcel 2. Replacement parking is not required in this case because of the close proximity to public transit service in the area. Tri-Met bus line number 71, on SE 52nd Ave, which is located approximately 400 feet from this site provides 20 minute peak hour service. Zoning Code section 33.266.110.B.3 states that “there is no minimum parking required for site located within 500 ft. of transit service that provides 20 minute peak hour service.”

APPROVAL CRITERIA-

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

33.660.120 The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met.

The relevant criteria are found in Section **33.660.120 [A-L], Approval Criteria for Land Divisions in Open Space and Residential Zones**. Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

Criterion	Code Chapter	Topic	Applicability Findings
A	33.610	Lots	Applicable - See findings below
B	33.630	Trees	Applicable - See findings below.
C	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
G	33.635 .100	Clearing and Grading	Applicable - See findings below.
G	33.635 .200	Land Suitability	Applicable - See findings below.
H	33.636	Tracts and Easements	Applicable - See findings below.

Criterion	Code Chapter	Topic	Applicability Findings
I	33.639	Solar Access	Not Applicable - All of the proposed parcels are interior lots (not on a corner). In this context, solar access standards express no lot configuration preference.
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
K	33.641	Transportation Impacts	Applicable - See findings below
L	33.651 - 33.654	Services and Utilities	Applicable - See findings below

Applicable Approval Criteria are:

A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.

Findings: Chapter 33.610 contains the density and lot standards applicable in the RF through R5 zones. These density and lot dimension standards ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected.

Density Standards

Density standards match housing density with the availability of services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the benefits to the public from investment in infrastructure and services. These standards promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given the base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing.

The method used to calculate density depends on whether a street is created as part of the land division, and whether the site is subject to certain environmental constraints.

In this case, a street is not proposed or required, and the site is not within the environmental zone, potential landslide hazard area, or flood hazard area. Therefore, the maximum and minimum density for this site is as follows:

$$\text{Minimum} = 10,125 \text{ square feet} * .80) \div 5,000 \text{ square feet} = 1.62$$

$$\text{Maximum} = 10,125 \text{ square feet} \div 5,000 \text{ square feet} = 2.02 \text{ (which rounds down to a maximum of 2 lots, per 33.930.020.B)}$$

If the minimum required density is equal to or larger than the maximum allowed density, then the minimum density is automatically reduced to one less than the maximum. Therefore in this case the minimum density is reduced to 1.

The applicant is proposing 2 lots. The density standards are therefore met.

Lot Dimensions

The lot dimension standards ensure that: (1) each lot has enough room for a reasonably-sized house and garage; (2) lots are of a size and shape that development on each lot can meet the development standards of the Zoning Code; (3) lots are not too large relative to the planned density; (4) each lot has room for at least a small, private outdoor area; (5) lots are compatible with existing lots; (6) lots are wide enough to allow development to orient toward the street; (7) lots don't narrow to an unbuildable width close to the street; (8) each lot has adequate access from the street; (9) each lot has access for utilities and services; and (10) lots are not landlocked.

The dimensions of the proposed lots as compared to the required lot dimension standards is shown in the following table (this information is found in Table 610-2/Chapter of the Zoning Code):

	R5 Zone Requirement	Proposed Parcel 1	Proposed Parcel 2	Proposed Parcel 3
Minimum Lot Area	3,000 sq. ft.	3,800 sq.	6,325 sq.	
Maximum Lot Area	8,500 sq. ft.	ft.	ft.	
Minimum Lot Width*	36 ft.	38 ft.		
Minimum Lot Depth	50 ft.	100 ft.		
Minimum Front Lot Line	30 ft.	36 ft.		
Minimum Flag Lot Width**	40 ft.		50 ft.**	
Minimum Flag Lot Depth**	40 ft.		102.5 ft.	

* Width is measured at the minimum front building setback line

** For flag lots, width is measured at the midpoint of the opposite lot lines in the "flag" portion of the lot.

Flag Lots

Parcel 2 is a flag lot. Zoning Code standards allow the creation of flag lots in very limited circumstances. The limitations minimize the negative impacts of flag lots on an area while allowing land to be divided when other options are not achievable. A flag lot is allowed only when all of the following is true: (1) an existing dwelling unit on the site is located so that it precludes a land division that meets the minimum lot width standards; and (2) only two lots are proposed; and (3) minimum density requirements for the site will be met. In this case there is an existing house on the site that would preclude the creation of standard lots. The house is located 12.4 feet from the eastern property line and 4.3 feet from the western property line, which would preclude the creation of a lot that would meet the minimum width standard of the R5 zone of 36 feet. Two lots are proposed. As discussed above, minimum density has been met. The proposed flag lot meets applicable Zoning Code standards found in 33.610.400 because it has a "pole" at least 12 feet wide that connects to a street, and as shown above, meets the minimum width and depth standard of 40 feet. Therefore, Parcel 2 is allowed.

The findings above describe how the applicable lot standards are met. This criterion is therefore met.

B. Trees. The standards and approval criteria of Chapter 33.630, Tree Preservation, must be met.

Findings: The regulations of Chapter 33.630 preserve trees and mitigate for the loss of trees. Certain trees are exempt from the requirements of this chapter.

The applicant has submitted an arborist report that inventories the trees currently located within the land division site, evaluates their condition and specifies root

protection zones (Exhibit A-4). It should be noted that several large trees were removed by the property owner prior to land division application submittal. The Urban Forestry Division has an open “Tree Cutting Ordinance” violation case open at the site that must be resolved prior to final plat approval (exhibit E-6). In regard to the “existing” tree inventory, some trees have been exempted because they are a nuisance species. The inventory identifies the following trees on the site:

Tree #	Species	Diameter (inches)	Significant? (On Table 630-1)	Exempt? (per 33.630.030)	To be retained?	RPZ (Root Protection Zone)
1	Dogwood	7”		No	Yes	14’
2	English Holly	7”		Yes-nuisance	No	

The total non-exempt tree diameter on the site is 7 inches. The applicant proposes to preserve tree 1 which comprise of 7 inches of diameter, or 100 percent of the total non-exempt tree diameter that was left at the site after the removal of several large trees that were removed prior to application submittal, as discussed above. The proposal to protect tree number 1 complies with Option 1 of the tree preservation standards, which requires at least 35 percent of the total tree diameter on the site to be preserved. The applicant has provided a Tree Preservation Plan showing the preserved trees and the required root protection zones (Exhibit C-1).

This criterion is met, subject to the condition that development on Parcel 1 be carried out in conformance with the Tree Preservation Plan (Exhibit C-1) and the applicant's arborist report (Exhibit A-4).

G. Clearing, Grading and Land Suitability. The approval criteria of Chapter 33.635, Clearing, Grading and Land Suitability must be met.

The approval criteria of Chapter 33.635 are found in two groups – clearing and grading, and land suitability.

33.635.100 – Clearing and Grading

- A. Existing contours and drainage patterns of the site must be left intact wherever practicable. Where alteration to existing drainage patterns is proposed, it must not adversely impact adjacent properties by significantly increasing volume of runoff or erosion;**
- B. Clearing and grading should be sufficient for construction of development shown on the Preliminary Clearing and Grading Plan;**
- C. Clearing and grading should be limited to areas of the site that are reasonably necessary for construction of development shown on the Preliminary Clearing and Grading Plan;**
- D. Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete; and**
- E. Soil stockpiles must be kept on the site and located in areas designated for clearing and grading as much as is practicable.**

Findings: The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat. In this case the site is primarily flat, and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. In addition, there is one tree

required to be preserved in the rear of parcel 1, near the area where the new parking pad for Parcel 1 is proposed. When the applicant applies for a permit to construct the new parking pad on parcel 1, Planning Staff will make sure this parking pad is located outside of the root protection zone of the protected tree. The rear yard of Parcel 1 has more than adequate room for a parking pad that will stay out of the recommended root protection zone of tree number 1 as shown on exhibit C-1. This criteria is met.

33.635.200 – Land Suitability

Where geologic conditions or historic uses of the site indicate a hazard may exist, the applicant must show that the proposed land division will result in lots that are suitable for development. The applicant may be required to make specific improvements in order to make the lots suitable for their intended uses and the provision of services and utilities.

The site is currently in residential use, and there is no record of any other use in the past. The applicant has proposed to remove the existing detached garage and shed and redevelop the site. In order to ensure that the new lots are suitable for development, a permit must be obtained and finalized for demolition of the detached garage prior to final plat approval. The applicant must also provide evidence to Planning staff (photograph) that the existing shed has been removed. With this condition, the new lots can be considered suitable for development, and this criterion is met.

H. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements must be met;

33.636.100 Requirements for Tracts and Easements

A. Ownership of tracts. Tracts must be owned as follows unless otherwise specified in this Title or the land use decision:

- 1. The owners of property served by the tract, or by any other individual or group of people. When the tract is owned by more than one person it must be held in common with an undivided interest;**
- 2. The Homeowners' Association for the area served by the tract;**
- 3. A public or private non-profit organization; or**
- 4. The City or other jurisdiction.**

Findings: No tracts are proposed or required for this land division, so criterion A does not apply.

B. Maintenance agreement. The applicant must record with the County Recorder a maintenance agreement that commits the owners or owners' designee to maintain all elements of the tract or easement; however, facilities within the tract or easement that will be maintained by a specified City agency may be recorded in a separate maintenance agreement. The maintenance agreement must be approved by BDS and the City Attorney in advance of Final Plat approval and must be submitted to the County Recorder to be recorded with the Final Plat. For a Planned Development not done in conjunction with a land division, the maintenance agreement must be submitted to the County Recorder to be recorded prior to issuance of the first building permit related to the development.

Findings: The following easements are proposed and/or required for this land division:

- An Access Easement is proposed to allow shared use of the flag pole associated with Parcel 2 for the benefit of Parcel 1, which will use the flag pole over Parcel 2 to access parking in the rear of Parcel 1.
- A “No Build” easement shall be established within the flag pole of Parcel 2 in the area adjacent to the single family home located on Parcel 1, per building code appeal #5285 (exhibit G-4)

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement(s) will be required describing maintenance responsibilities for the easements described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement(s) is prepared and recorded with the final plat. In addition, the plat must reference the recorded maintenance agreement(s) with a recording block for each agreement, substantially similar to the following example:

“A Declaration of Maintenance agreement for (name of feature) has been recorded as document no. _____, Multnomah County Deed Records.”

With the conditions of approval discussed above, this criterion is met.

K. Transportation impacts. The approval criteria of Chapter 33.641, Transportation Impacts, must be met; and,

The relevant approval criteria of Chapter 33.641 are found in the two paragraphs below.

33.641.020. The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes.

33.641.030. The applicant may meet the criterion in Section 33.641.020, above, by including mitigation measures as part of the land division proposal. Mitigation measures must be acceptable to the City Engineer and may include providing transportation demand management measures, an access management plan, constructing streets or bicycle, pedestrian, or transit facilities on or off the site or other capital improvement projects such as traffic calming devices.

Findings: The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Small land divisions involving only a few dwelling units may not require a formal transportation impact study, while it might be required for larger projects (Title 17 includes technical standards describing when a more formal study is required).

The site has approximately 50 feet of frontage on SE Raymond St. SE Raymond St. is classified as a local service street for all modes in the Transportation System Plan. Tri-Met provides transit service approximately 420 feet from the site on SE 52nd Ave via bus 71. Parking is currently allowed on SE Raymond St. on both sides. There is one driveway entering the site that provides access to off-street parking for the existing house.

SE Raymond St. is fully improved with a paved roadway, curbs, planting strips, and sidewalks. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street

improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional dwelling can be safely served by this existing street without having any significant impact on the level of service provided.

This criterion is met.

L. Services and utilities. The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, must be met.

Findings: Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way.

- The water standards of 33.651 have been verified. An existing 8-inch water main is available in SE Raymond St. Water is available to serve the proposed development from the water main in SE Raymond St.. Parcel 1 has an existing water service from that main. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch public combination sanitary sewer located in SE Raymond St. that can serve the sanitary needs of the proposed lots. Parcel 1 has an existing sewer service from that main. See Exhibit E-1 for more details.
- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.

33.653.020 Stormwater Management Approval Criteria

- A. If a stormwater tract is proposed or required, an adequate amount of land and an appropriate location must be designated on the Preliminary Plan; and**
- B. The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.**

Findings: No stormwater tract is proposed or required. Therefore, criterion A is not applicable.

The City of Portland requires that stormwater from development be cleaned and disposed of in a manner that meets the requirements of the City's Stormwater Management Manual. In order to meet this approval criterion, land division proposals must demonstrate an approved method of cleaning (water quality treatment), detention (delayed release), and an approved disposal point.

The Stormwater Management Manual contains a hierarchy of acceptable methods of stormwater treatment and disposal. The hierarchy requires that applicants first explore the use of methods that have a lower potential impact on groundwater, such as on-site surface infiltration swales and infiltration planters. If these methods are not feasible on a site, applicants may move lower on the hierarchy, to methods that inject water deeper into the

ground through mechanical devices such as drywells or sumps, or carry it off of the site into storm sewers, drainageways, or other approved disposal points.

In addition to determining appropriate treatment and disposal methods by working through the hierarchy in the Stormwater Management Manual, stormwater facilities must be sized, through engineering calculations, to accommodate the expected amounts of stormwater. In some cases, sizing a stormwater facility necessitates testing the infiltration rate of the soil at the site.

The applicant has proposed the following stormwater management methods (Exhibit C-1), and the Bureaus have responded as follows (Exhibits E-1 and E-5):

- Parcel 2:** Stormwater from this lot will be directed to an individual drywell that will treat the water and slowly infiltrate it into the ground. This lot has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. Site Development has indicated conceptual approval of the drywell. To ensure that the size and setback requirements of the Stormwater Management Manual can be met, specific information regarding the existing building locations, future building footprints and the location for stormwater facilities shall be provided on the supplemental site plan prior to final plat approval.
- Parcel 1 (the lot with the existing house):** The downspouts of the existing house are connected variously to the ground, to splash blocks and to an undetermined location (Site Development was unable to determine where the downspout on the south side of the house discharges). All stormwater facilities must be located on the same property as the structure they serve and further, must not be situated so as to adversely affect existing development on-site or on adjacent properties. Prior to final plat approval, Site Development must inspect the site to confirm that these requirements are met. Before contacting Site Development for inspection, the downspout on the west side of the house must be relocated to discharge to a splash block that drains to a vegetated area at least 5 feet from property lines, 6 feet from a basement (if any), and 10 feet from structures on adjacent property.

With the conditions of approval described above, the stormwater management criteria are met. As shown by the findings above, the Services and Utilities criteria are met.

Right of Way Approval Criteria

Chapter 33.654 contains standards and approval criteria for rights of way. Due to the location of this site, and the type of street that is proposed, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

Code Section	Topic	Applicability Findings
33.654.110.B.1	Through streets and pedestrian connections	Applicable - See findings below
33.654.110.B.2	Dead end streets	Not Applicable – No dead-end street are proposed or required
33.654.110.B.3	Pedestrian connections in the I zones	Not applicable - The site is not located within an I zone.

Code Section	Topic	Applicability Findings
33.654.110.B.4	Alleys in all zones	Not applicable – No alleys are proposed or required.
33.654.120.C.1	Width of the street right-of-way	Not applicable – The proposal does not include a common green/shared court/pedestrian connection instead of a traditional street.
33.654.120.C.3.c	Turnarounds	Not applicable – No turnarounds are proposed or required.
33.654.120.D	Common Greens	Not applicable – No common greens are proposed or required.
33.654.120.E	Pedestrian Connections	Not applicable – There are no pedestrian connections proposed or required.
33.654.120.F	Alleys	Not applicable – No alleys are proposed or required.
33.654.120.G	Shared Courts	Not applicable – No shared courts are proposed or required.
33.654.130.A	Utilities	Not applicable – No specific utility easements adjacent to the right-of-way have been identified as being necessary. Therefore, this criterion is met.
33.654.130.B	Extension of existing public dead-end streets and pedestrian connections	Not applicable – There are no extension of existing public dead-end street or pedestrian connections adjacent to the site.
33.654.130.C	Future extension of proposed dead-end streets and pedestrian connections	Not applicable – No street extensions are required to serve abutting sites that are further dividable.
33.654.130.D	Partial rights-of-way	Not applicable – No partial public streets are proposed or required.

Applicable Approval Criteria are:

33.654.110.B.1 Approval criterion for through streets and pedestrian connections in OS, R, C, and E Zones. In OS, R, C, and E zones, through streets and pedestrian connections are required where appropriate and practicable, taking the following into consideration:

- a. Through streets should generally be provided no more than 530 feet apart, and pedestrian connections should generally be provided no more than 330 feet apart. Through street and pedestrian connections should generally be at least 200 feet apart;**
- b. Where the street pattern in the area immediately surrounding the site meets the spacing of subparagraph a., above, the existing street pattern should be extended onto the site;**
- c. Characteristics of the site, adjacent sites, and vicinity, such as: (1) Terrain; (2) Whether adjacent sites may be further divided; (3) The location of existing streets and pedestrian connections; (4) Whether narrow frontages will constrain creation of a through street or pedestrian connection; (5) Whether environmental overlay zones interrupt the expected path of a through street or pedestrian connection; and (6) Whether existing dwelling units on- or off-site obstruct the expected path of a through street or pedestrian connection.**

- Alternative locations or designs of rights-of-way should be considered that avoid existing dwelling units. However, provision of through streets or pedestrian connections should take precedence over protection of existing dwelling units where the surrounding transportation system will be significantly affected if a new through street or pedestrian connection is not created;**
- d. Master street plans for the area identified in Goal 11B of the Comprehensive Plan;**
 - e. Pedestrian connections should take the most direct route practicable. Users should be able to see the ending of the connection from the entrance point, if possible.**

Findings: The site is located on SE Raymond St., an east-west through street. The site is also located approximately 405 feet from SE 52nd Ave, the nearest north-south through street in the vicinity. The site is located between SE 52nd Ave and SE 58th Ave, the nearest north-south through streets which have a distance between them of approximately 1,160 feet. There are no other north/south through streets between these two streets. If the distance between these existing streets is evaluated against the optimum spacing requirement of 530 feet, one can conclude that there should be a north-south through street provided in the vicinity of the site.

The site appears to contain sufficient width to allow the creation of a public north-south through street. However, the properties adjacent to the portion of the site where the street would terminate are already developed, and not configured in a manner that would easily allow the further extension of a street from the site. So, although the optimum spacing criteria would indicate the need for a north-south through street or pedestrian connection at this site, there is no practicable opportunity to provide them in this land division.

The site is within the Portland Master Street Plan for the Southeast District, which does not show an east-west through street at this location. Therefore, the proposal is consistent with the master street plan. PDOT has not requested a public street at this location.

For the reasons described above, this criterion is met.

33.805.010 Purpose of Adjustments

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.040 Approval Criteria

Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria A. through F., below, have been met.

- A.** Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

33.120.220.A Setbacks – Purpose

The building setback regulations serve several purposes:

- ◆ They maintain light, air, separation for fire protection, and access for fire fighting;
- ◆ They reflect the general building scale and placement of multi-dwelling development in the city's neighborhoods;
- ◆ They promote a reasonable physical relationship between residences;
- ◆ They promote options for privacy for neighboring properties;
- ◆ They require larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards;
- ◆ They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity; and
- ◆ Setback requirements along transit streets create an environment that is inviting to pedestrians and transit users.

Findings: The above purpose statement consists of 7 purposes. Two of these (requirements for larger front setbacks, and setback requirements along transit streets) are not applicable to the present request for an adjustment to the side setback requirement.

The applicant has requested an adjustment to the Zoning Codes side setback standards in order to allow the existing house on proposed Parcel 1 to be located closer to the proposed flagpole on Parcel 2 than the Zoning Code allows. Zoning Code section 33.110.220.D.2 requires a minimum 3-ft. side building setback from an existing house and a flagpole lot line.

In this case, the applicant is not proposing a setback between the existing house on Parcel 1 and the flagpole associated with proposed Parcel 2. The applicant is proposing to have the existing house located right along the flagpole with a zero setback.

The request for an adjustment is to allow the west wall of the existing house to be located along the west (side) property line equally meets the remaining purposes listed above, due to the fact that the subject property's west property line abuts the 12-foot wide "flag pole" portion of Parcel 2.

Due to the width of this flag pole (12 ft.), it is not buildable. In addition, this flagpole is currently a driveway for the existing house, connecting it to SE Raymond St. This proposal will now connect Parcel 2 to SE Raymond St., and in addition, is being proposed by the applicant to have an access easement over it so it can continue be used as a driveway for Parcel 1 to access SE Raymond St. from its rear.

The practical effect of the subject property's location next to this unbuildable 12-foot flag pole is that, even though the west wall of the existing dwelling on the subject property will have no setback from its west property line, it will be separated from the nearest dwelling to the west (with an address of 5406 SE Raymond St.) by at least 17 feet. A 17-foot separation between the dwellings is equal or greater than the separation that would result if the subject property and Parcel 1 were abutting each other and the dwellings on each lot were constructed to comply with the minimum 5-foot side yard setbacks. This 17-foot separation distance is also consistent with the separation of adjacent residential structures on surrounding lots in the area, so it promotes a reasonable physical relationship between residences and reflects the general building scale and placement of single dwelling development in the city's neighborhoods.

The 12-foot flag pole associated with Parcel 2, along with the 17 ft. distance between the existing dwelling on the subject property and the property located east of this site with an address of 5406 SE Raymond St. will allow for maintenance of light, air, and separation for

fire protection between the dwellings. It will also allow for privacy between the dwellings, because again the 17-foot setback is equal or greater than the separation between the dwellings that would result if they were on abutting lots and each complied with the minimum 5-foot side yard setbacks.

The Zoning Code does not allow elements of a dwelling units, including eaves, doors and stairs to cross common property lines. In addition, the applicant applied for a building code appeal to allow this existing house to be located near a property line without a setback. The building code appeal (exhibit G-4) allowed the house to remain; as long as the existing door of the existing house that is facing west is either removed or converted to window area. This building code appeal also required the applicant to record a “no build” easement within the flagpole to ensure no structures are built within that area. This requirement will have the practical effect of further ensuring that privacy is maintained between the existing dwelling on the subject property and the nearest dwelling to the west (with an address of 5406 SE Raymond St.).

Based on the discussion above. This criterion can be met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The proposal to allow the western building wall of the existing house on Parcel 1 to have a zero setback from its west (side) property line and will not detract from the livability or appearance of the residential area. Residential developments to the north, south, and west will be unaffected by this side yard setback adjustment. The closest residence to the south, which will be the future residence on Parcel 2 of the partition plat, will also be unaffected by the side yard setback adjustment due to a separation between the two residences. This criterion is met.

- C.** If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: Only one adjustment is being requested, this standard is not applicable

- D.** City-designated scenic resources and historic resources are preserved; and

Findings: No city-designated scenic resources or historic resources exist on the subject property, this standard is not applicable.

- E.** Any impacts resulting from the adjustment are mitigated to the extent practical; and

Findings: The applicant has proposed to mitigate for the setback reduction to the flag portion of the flag lot and the driveway located within this portion of the flag pole of Parcel 2 by either placing a 6 ft. tall wood fence along the flag poles western property line, or planting shrubs or trees along the flag poles western property line to buffer the neighbor located to the west from some of the impacts of the flag lots driveway (see exhibit A-5).

The mitigation for the adjustment request is due to the creation of Parcel 2 in the rear of this site, which would have not been possible without the approval of this setback adjustment, and will increase the amount of vehicles using the existing driveway that

will become the flag pole for parcel 2. Therefore, Planning staff agrees with the applicants mitigation proposal to mitigate along the flag poles western property boundary, since approval of this adjustment will allow additional vehicles to use the driveway within the flag pole of Parcel 2, since Parcel 1 and 2 will now share this driveway area for access to the rear of the site, and the addition of Parcel 2 could create more traffic within this existing driveway area. Planning staff does not however agree with the applicant's mitigation plan to plant trees within this area, since room for new trees is very limited within this setback area.

The applicant had indicated that a 6-ft. high fence would be one of the preferred Options. Planning staff would like to reduce the size of this fence to 3.5 ft along the flag poles front setback area (along the western property line), because a 6-ft. fence located on the front setback of the flag pole is not allowed per zoning code section 33.110.255.C.1

Therefore, based on the discussion above, the conditions of approval are:

At the time of development on Parcel 2 (the flag lot), the applicant will be required to either place a wood fence along the flag pole's western property line, the fence would only be allowed to be 3.5 ft. high for the area within the flag poles front setback area and meet Zoning Code section 33.110.255.C.1; or alternatively, the applicant can plant high or low shrubs along the flag poles western property line to form a continuous screen to buffer the neighbor located to the west from some of the impacts of the flag lot's driveway. Planning staff felt that it was important to give the applicant some flexibility in the type of buffer the applicant will be required to install at the time of construction on Parcel 2, so the builder of the new home on Parcel 2 will have some options at the site.

Additionally, as mentioned above, the Zoning Code does not allow elements of dwelling units, including eaves, doors and stairs to cross common property lines. In correlation with the Building Code appeal mentioned above (Building Code appeal #5285), as a condition of approval, the applicant is required to do the following prior to final plat approval:

- 1) Modify the existing house along its west-facing facade in order to allow a property line to be located along this facade with a zero setback. A building permit must be finalized prior to final plat approval which removes the stairs along the west side of the existing house, removes the door facing west and modifies the eaves to be completely located within the property boundary of Parcel 1 with the existing house;
- 2) A no build easement must be shown on the plat, that specifies no structures can be located within the flagpole adjacent to the house on Parcel 1 per building code appeal #5285 (exhibit G-4).

With the conditions of approval described above, this criterion is met.

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable.

Findings: The site is not in a environmental zone, so this criteria is not applicable.

DEVELOPMENT STANDARDS

General Information about Development Standards and Approval Criteria. The Zoning Code contains two types of regulations: Development standards and Approval criteria.

Approval criteria, such as those listed earlier in this report, are administered through a land use review process. Approval criteria are regulations where the decision-maker must exercise discretion to determine if the regulation is met. Public notice is provided and public comments received that address the approval criteria are addressed in the decision.

Development Standards: Development standards are clear and objective regulations (for example: building setbacks; number of required parking spaces; and maximum floor area). Compliance with development standards is reviewed as part of the administrative permitting process and are not considered to be discretionary reviews. Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

Among the various development standards that will be applicable to this lot, the applicant should take note of:

- Flag Lots-- special setback standards apply to flag lots in the RF-R2.5 zone, and special landscape standards apply to flag lots that are 10,000 square feet or less in area in the R7-R2.5 zones (33.110.240.F)

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R5 zone (Please see section on Other Technical Standards for Building Code standards.)

In this case, there are several Zoning Code standards that relate to existing development on the site:

- Minimum Setbacks – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed new lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will have an alternative setback with a zero setback from the its new western property per the approved adjustment described previously in this report. As addressed in the adjustment approval criteria, some portions of the existing house must be removed prior to final plat approval to ensure Zoning Code setback standards are met. The eaves, stairs and door along the existing houses western property line must be removed prior to final plat approval. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.
- Accessory Structure – Structures are not allowed to remain on a proposed lot line. Therefore, in order for the proposed new lots to be approved, the detached garage that straddles the line between proposed Parcels 1 and 2 must be removed prior to final plat. Demolition permits are required. The applicant must provide documentation prior to final plat approval that all required demolition permits have received final inspection. To ensure that this standard is met, a condition of approval is necessary. Additionally, there is an existing shed located on parcel 2. This shed is small enough to not warrant a demolition permit for its removal. Although the applicant will need to provide evidence (photographs) that this shed has been removed prior to final plat approval; or

alternatively, the applicant can submit a covenant with the City that would allow the shed to remain for two years.

- **Required Off-Street Parking** - A paved parking pad/garage provides parking for the existing house on Parcel 1. As a result of this land division, the parking space for the existing house will be located on a different lot, and will no longer be available to Parcel 1. The Portland Zoning Code does not require off-street parking on sites that are less than 500 feet from a transit street with 20-minute peak-hour bus, streetcar, or light rail service. Tri-Met provides transit service approximately 400 feet from the site on SE 52nd Ave via bus number 71. Bus number 71 provides peak-hour service meeting this requirement. As a result, no replacement parking is required for Parcel 1. However, the applicant has indicated that replacement parking will be provided on Parcel 1.

With the conditions noted above, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

Bureau	Code Authority	Topic	Contact Information
Water Works	Title 21	Water availability	503-823-7404 http://www.water.ci.portland.or.us/
Environmental Services	Title 17; 2002 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 http://www.bes.ci.portland.or.us/
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 http://www.fire.ci.portland.or.us/
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 http://www.trans.ci.portland.or.us/
Development Services	Titles 24 -27, Admin Rules for Private Rights of Way	Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 http://www.bds.ci.portland.or.us.

As authorized in Section 33.800.070 of the Zoning Code conditions of approval related to these technical standards have been included in the Administrative Decision on this proposal.

- The applicant must meet the requirements of the Fire Bureau in regards to addressing requirements for flag lots and recording an Acknowledgement of Special Land Use

Conditions that requires the provision of internal fire suppression sprinklers on Lots 2. These requirements are based on the technical standards of Title 31 and the Fire Code.

- If required, the applicant must meet the requirements of Urban Forestry for street tree planting in the existing planter strip adjacent to Parcel 1 prior to final plat approval. The applicant must meet the Urban Forestry requirement in regard to the current “Tree Cutting Ordinance” violation on the site (#08-44) This violation must be resolved prior to final plat approval (see exhibit E-6 for more details) This requirement is based on the standards of Title 20.

CONCLUSIONS

The applicant has proposed a 2-lot partition with an adjustment request, as shown on the attached preliminary plan (Exhibit C-1). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: demolition of the detached garage, mitigation for the adjustment and Urban Forestry requirements regarding the tree cutting violation.

With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of one adjustment:

For the existing house on Parcel 1 to decrease the minimum required side setback between the existing house and its western property line abutting the flag pole of parcel 2 from 3 feet to zero, and;

Approval of a Preliminary Plan for a 2-lot partition, that will result in one standard lot and one flag lot as illustrated with Exhibit C-1, subject to the following conditions:

A. Supplemental Plan. Three copies of an additional supplemental plan shall be submitted with the final plat survey. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:

- Any buildings or accessory structures on the site at the time of the final plat application;
- Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
- The proposed general location of future building footprints and stormwater facilities for each of the vacant lots.
- Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

1. An Access Easement over the “flag pole” portion of Parcel 2 for the benefit of Parcel 1 shall be shown and labeled on the final plat. The easement shall allow shared use of this area for all of the purposes that a driveway would be typically used for.
2. A “No build” easement must be shown along the flagpole of parcel 2 per building code appeal #5285.

3. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C.6 and C.7 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: “A Declaration of Maintenance Agreement for (access easement) has been recorded as document no. _____, Multnomah County Deed Records.”

C. The following must occur prior to Final Plat approval:

1. The applicant will be required to install residential sprinklers in the new house on Parcel 2. An Acknowledgement of Special Land Use Conditions describing the sprinkler requirement must be referenced on and recorded with the final plat.

Existing Development

2. The applicant must obtain a finalized demolition permit for removing the garage located on Lots 1 and 2 and provide evidence that the shed located on Parcel 2 has been removed.
3. The applicant must obtain a finalized building permit for modifications to the existing house that will remain on proposed Lot 1 that demonstrate compliance with the approved adjustment, subject to the following standards in relation to the proposed new lot lines:
 - The permit must show removal of sufficient portions of the existing house including the stairs along the west side of the house, removal of the door facing west and modifying the eaves to be completely located within the property boundary of Parcel 1 with the existing house.
4. The applicant must meet the requirements of Site Development for the stormwater systems on the existing house to remain on Lot 1. Specifically, the gutters and downspouts must function properly, and they must direct water to an approved disposal point that meets setback requirements from the new lot lines. If modifications to the system are required by Site Development, the applicant must obtain finalized plumbing permits for this work prior to final plat approval.
5. If required by Urban Forestry, the applicant must plant 1 or 2 street tree(s) in the planter strip on SE Raymond Street adjacent to Parcel 1. Street trees will be chosen from the City’s approved street tree list for the 4- foot-planting strip. Tree size requirements for residential sites are to be 2-inch caliper. The applicant must contact Urban Forestry at 503-823-4018 prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit. Urban Forestry must inspect and approve the newly planted trees prior to final plat approval.

Required Legal Documents

6. A Maintenance Agreement shall be executed for the Access Easement area described in Condition B.1 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

7. The applicant shall execute an Acknowledgement of Special Land Use conditions, requiring residential development on Lot 2 to contain internal fire suppression sprinklers. The acknowledgement shall be recorded with Multnomah County, and referenced on the final plat.

Other requirements

8. The applicant must meet the requirements of Urban Forestry regarding the Tree Cutting Ordinance Violation on the site prior to final plat approval (see exhibit E-6).

D. The following conditions are applicable to site preparation and the development of individual lots:

1. Development on Lot 1 shall be in conformance with the Tree Preservation Plan (Exhibit C-1) and the applicant's arborist report (Exhibit A-4). Specifically, trees number 1 is required to be preserved, with a 14 ft root protection zone indicated on Exhibits C-1 and A-4. Encroachment into the specified root protection zones may only occur under the supervision of a certified arborist. Planning and Zoning approval of development in the root protection zones is subject to receipt of a report from an arborist, explaining that the arborist has approved of the specified methods of construction, and that the activities will be performed under his supervision.
2. The applicant must meet the addressing requirements of the Fire Bureau for Parcel 2, the flag lot.
3. The applicant will be required to install residential sprinklers in the new house on Lot 2 to the satisfaction of the Fire Bureau.
4. Development on Lot 2 shall be in conformance with the approved adjustment mitigation plan. The applicant shall either:

Plant High or low shrubs along the western edge of the flagpoles property line (see exhibit C-1) to form a continuous screen to buffer the neighbor to the west from the impacts of the flag pole driveway.

Or alternatively;

Install a wood fence along the western edge of the flag poles property line (see exhibit C-1). If a wood fence is built, it must meet all standards of 33.110.255

Clear evidence of this must be provided with building permit application for development on Lot 2.

Decision rendered by: S. Burgett **on September 25, 2008**

By authority of the Director of the Bureau of Development Services

Decision mailed September 30, 2008

Staff Planner: Shawn Burgett

About this Decision. This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits

may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on June 6, 2008, and was determined to be complete on August 5, 2008.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on June 6, 2008.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period.

Note: some of the information contained in this report was provided by the applicant. As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term “applicant” includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on 10/14/08** at 1900 SW Fourth Ave. Appeals may be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fifth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. There is no fee for ONI recognized organizations appealing a land use decision for property within the organization’s boundaries. The vote to appeal must be in accordance with the organization’s bylaws. Low-income individuals appealing a decision for their personal residence that they own in whole or in part may qualify for an appeal fee waiver. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing the appeal; please allow 3 working days for fee waiver approval. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-0625 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at www.ci.portland.or.us.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301 or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the land division. The final land division plat **must** be submitted to the City **within three years** of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. **The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City's approval of the preliminary plan.**

Recording concurrent approvals. The preliminary land division approval also includes concurrent approval of an adjustments. These other concurrent approvals must be recorded by the Multnomah County Recorder before any building or zoning permits can be issued.

A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with these concurrent land use reviews. The applicant, builder, or their representative may record the final decisions on these concurrent land use decisions as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034.

Expiration of concurrent approvals. The preliminary land division approval also includes concurrent approval of an adjustment. For purposes of determining the expiration date, there are two kinds of concurrent approvals: 1) concurrent approvals that were necessary in order for the land division to be approved; and 2) other approvals that were voluntarily included with the land division application.

The following approvals were necessary for the land division to be approved: Adjustment to the side setback standards for the existing house located on Parcel 1. This approval(s) expires if:

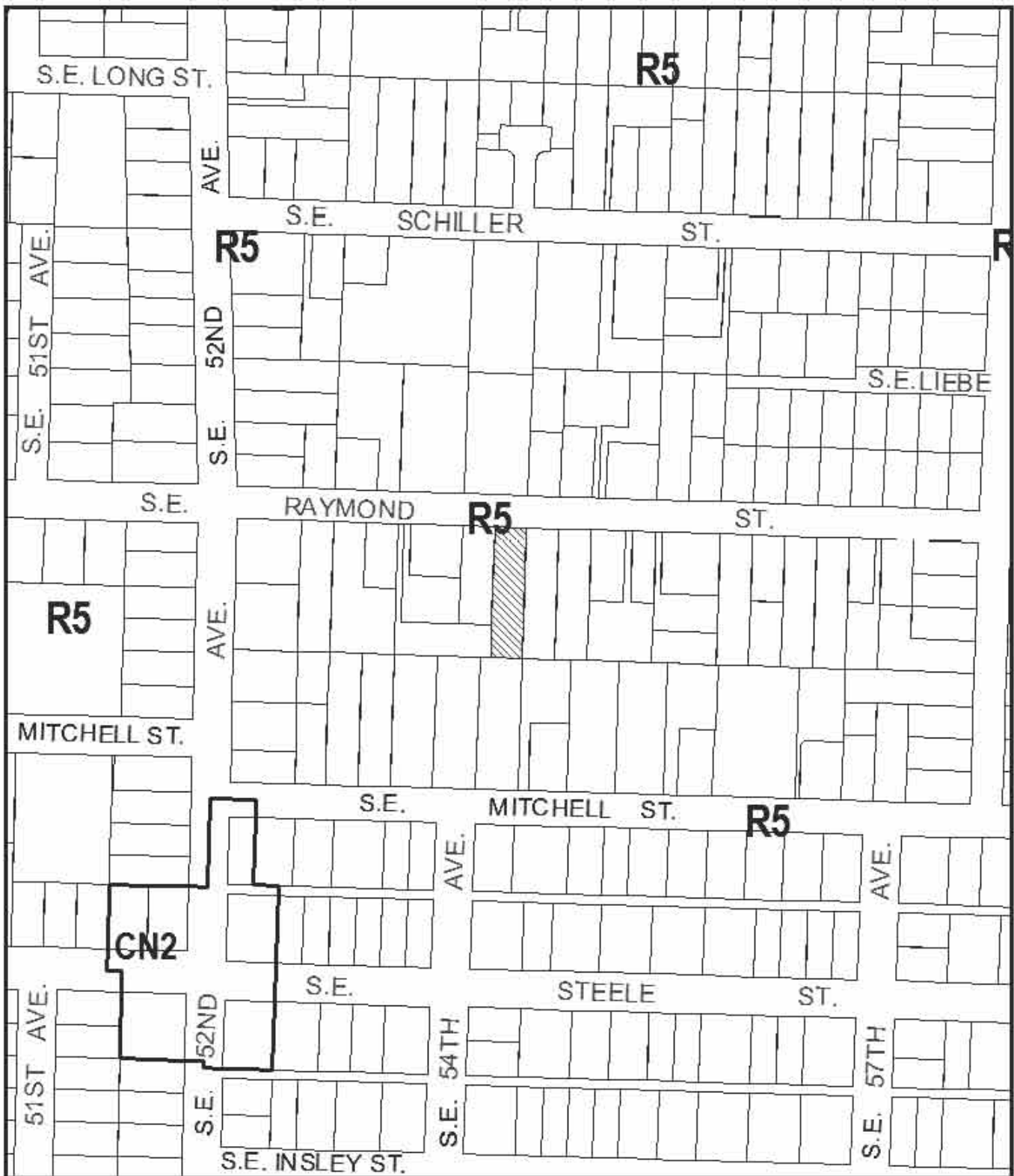
- The final plat is not approved and recorded within the time specified above, or
- Three years after the final plat is recorded, none of the approved development or other improvements (buildings, streets, utilities, grading, and mitigation enhancements) have been made to the site.

All other concurrent approvals expire three years from the date rendered, unless a building permit has been issued, or the approved activity has begun. Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

EXHIBITS
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Land Division Approval Criteria
 - 2. Adjustment Approval Criteria
 - 3. Applicants Early Neighborhood Notification documentation
 - 4. Arborist Report
 - 5. Adjustment Mitigation Proposal
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
 - 2. Survey stamped by surveyor
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Plans Examiner
- F. Correspondence:
 - 1. Woodstock Neighborhood Association Land Use Planning Committee. E-mailed to City Staff on 9/8/08. Names on letter: Stewart Buettner, Terry Griffiths, Kathryn King, Ryan Rushing, Carolyn Thurman and Laura Wendel.
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Incomplete letter dated 6/27/08
 - 4. Building Code appeal Summary #5285

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).

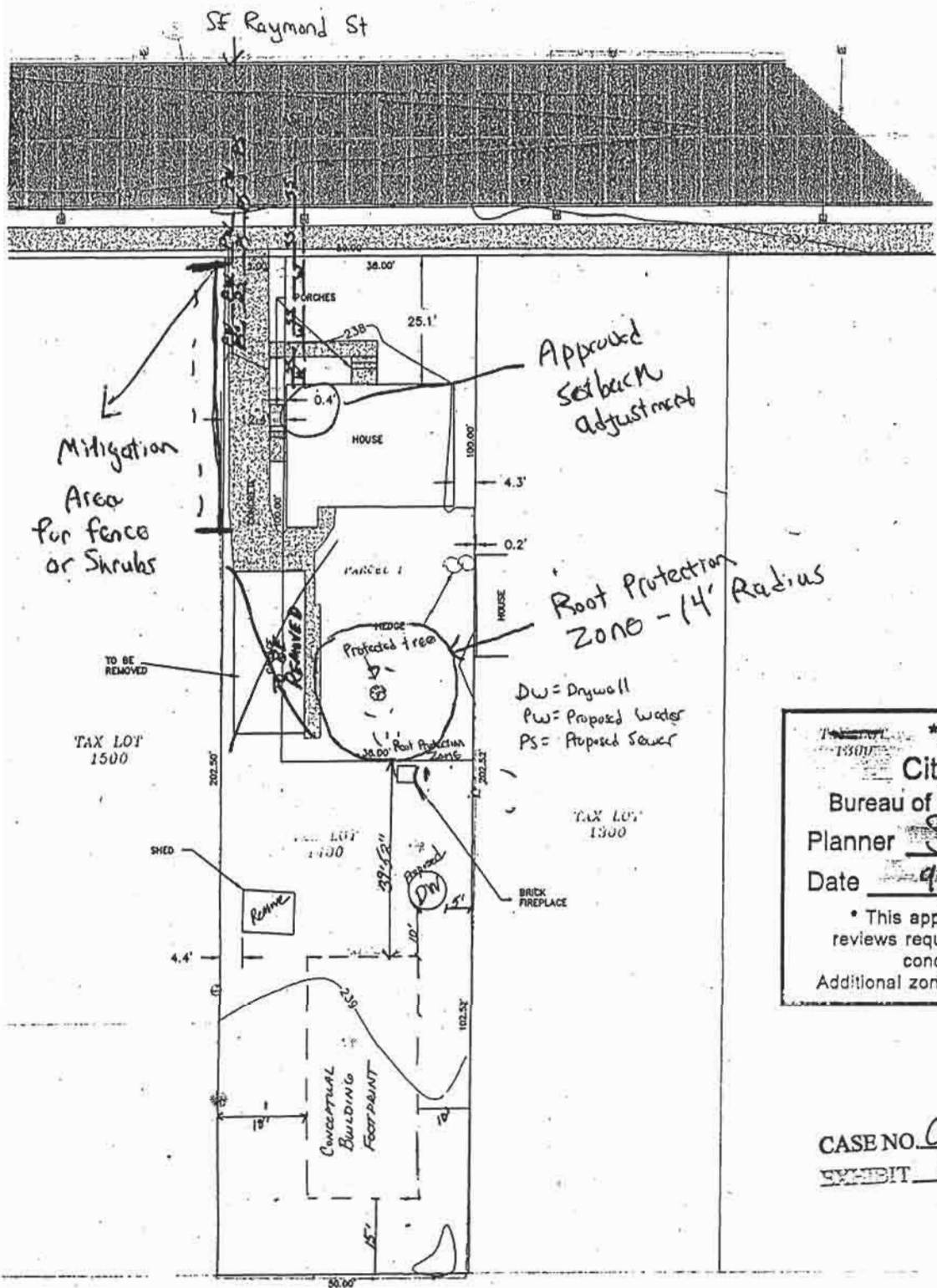


ZONING

 Site



File No. LU 08-135198 LDPAD
 1/4 Section 3536
 Scale 1 inch = 200 feet
 State_Id 1S2E18AC 1400
 Exhibit B (Jun 11,2008)



Approved
 City of Portland
 Bureau of Development Services
 Planner SBW
 Date 9/25/08

* This approval applies only to the reviews requested and is subject to all conditions of approval. Additional zoning requirements may apply.

CASE NO. 08-135198
 EXHIBIT C-1